

HOUSE BILL 422

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2004 Regular Session
4r2207
CF 4r1493

By: **Delegate Moe**

Introduced and read first time: January 29, 2004

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2004

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Surplus Lines Brokers - Policy and Inspection Fees**

3 FOR the purpose of altering certain authority of certain surplus lines brokers to
4 charge certain policy fees on certain policies procured by certain licensed
5 producers to whom the surplus lines broker pays a commission; specifying a
6 certain limit on the policy fee that a certain surplus lines broker may charge on
7 a policy issued by an authorized insurer that was procured by ~~a licensed~~
8 ~~producer~~ certain licensed producers to whom the surplus lines broker pays a
9 commission; requiring the policy fee to be reasonably related to the cost of
10 underwriting, issuing, processing, and servicing the policy by the surplus lines
11 broker for the authorized insurer; authorizing a certain surplus lines broker to
12 recoup from a prospective insured the actual cost of an inspection required for
13 the placement of the insurance with an authorized insurer under certain
14 circumstances; specifying that only one inspection fee may be charged to recoup
15 the actual cost of an inspection for each policy or certificate of coverage issued by
16 an authorized insurer; specifying that only one policy fee may be charged for
17 each policy or certificate of coverage issued by an authorized insurer; and
18 generally relating to policy and inspection fees charged by surplus lines brokers.

19 BY repealing and reenacting, with amendments,
20 Article - Insurance
21 Section 27-216(d)
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2003 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Insurance

2 27-216.

3 (d) (1) Notwithstanding subsection (a) of this section, a surplus lines broker
4 that holds a certificate of qualification under Title 3, Subtitle 3 of this article may
5 charge a reasonable policy fee ON A POLICY ISSUED BY A SURPLUS LINES INSURER
6 not exceeding:

7 (i) \$100 on each personal lines policy procured by a licensed
8 insurance producer NOT AFFILIATED WITH OR CONTROLLED BY THE SURPLUS LINES
9 BROKER AND to whom the surplus lines broker pays a commission; or

10 (ii) \$250 on each commercial lines policy procured by a licensed
11 insurance producer NOT AFFILIATED WITH OR CONTROLLED BY THE SURPLUS LINES
12 BROKER AND to whom the surplus lines broker pays a commission.

13 (2) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF
14 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN
15 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY CHARGE
16 A REASONABLE POLICY FEE ON A POLICY ISSUED BY AN AUTHORIZED INSURER NOT
17 EXCEEDING:

18 ~~(I) \$100 ON EACH PERSONAL LINES POLICY PROCURED BY A~~
19 ~~LICENSED INSURANCE PRODUCER TO WHOM THE SURPLUS LINES BROKER PAYS A~~
20 ~~COMMISSION; OR~~

21 ~~(II) \$250 ON EACH COMMERCIAL LINES POLICY PROCURED BY A~~
22 ~~LICENSED INSURANCE PRODUCER NOT AFFILIATED WITH OR CONTROLLED BY THE~~
23 ~~SURPLUS LINES BROKER AND TO WHOM THE SURPLUS LINES BROKER PAYS A~~
24 ~~COMMISSION.~~

25 [(2)] (3) The policy fee charged in accordance with this subsection must
26 be reasonably related to the cost of underwriting, issuing, processing, and servicing
27 the policy by the surplus lines broker for the surplus lines insurer OR THE
28 AUTHORIZED INSURER.

29 [(3)] (4) Notwithstanding subsection (a) of this section, a surplus lines
30 broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article
31 may recoup from the prospective insured the actual cost of an inspection required for
32 the placement of surplus lines insurance WITH A SURPLUS LINES INSURER if:

33 (i) the inspection is required by the surplus lines insurer;

34 (ii) the cost of the inspection is actually incurred by the surplus
35 lines broker and not retained by the surplus lines broker; and

36 (iii) the cost of the inspection is documented and verifiable.

1 (5) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF
2 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN
3 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY RECOUP
4 FROM THE PROSPECTIVE INSURED THE ACTUAL COST OF AN INSPECTION REQUIRED
5 FOR THE PLACEMENT OF INSURANCE WITH AN AUTHORIZED INSURER IF:

6 (I) THE INSPECTION IS REQUIRED BY THE AUTHORIZED INSURER;

7 (II) THE COST OF THE INSPECTION IS ACTUALLY INCURRED BY THE
8 SURPLUS LINES BROKER AND NOT RETAINED BY THE SURPLUS LINES BROKER; AND

9 (III) THE COST OF THE INSPECTION IS DOCUMENTED AND
10 VERIFIABLE.

11 [(4)] (6) Regardless of the number of insurers participating on a risk:

12 (i) only one inspection fee may be charged to recoup the actual cost
13 of an inspection under paragraph [(3)] (4) OR (5) of this subsection for each policy or
14 certificate of coverage; and

15 (ii) only one policy fee may be charged under paragraph (1) OR (2) of
16 this subsection for each policy or certificate of coverage.

17 [(5)] (7) On a form approved by the Commissioner, the surplus lines
18 broker shall:

19 (i) make a clear and conspicuous written disclosure of:

20 1. any inspection fee;

21 2. the total amount of the policy fee;

22 3. the premium tax on the policy;

23 4. any financial interest in the person performing the
24 inspection, if applicable; and

25 5. whether the surplus lines broker will receive
26 compensation from the person that performs the inspection; and

27 (ii) notify the prospective insured of the option to obtain the
28 inspection from another person who meets the requirements of or is approved by the
29 surplus lines insurer.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2004.

